

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MAR 27 2006

JAMES R. LARSEN, CLERK
FICHLAND, WASHINGTON

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN
DISTRICT OF WASHINGTON AT RICHLAND

James S. Gordon, Jr., Plaintiff,

VS.

Impulse Marketing Group, Inc.,

Defendant

Impulse Marketing Group, Inc.,

Third-Party Plaintiff,

V.

Jonathan K. Gordon, Third-Party

Defendant

TO: Clerk of the Court

AND TO: Floyd E. Ivey, Attorney for Third-Party Plaintiff

AND TO: Peter J. Glantz and Sean A. Moynihan

Introduction

In November 2004, the above captioned case was filed with this Court. About six months ago, I was sued by Impulse in retaliation for Plaintiff listing me as a prospective witness in his lawsuit. Earlier this month, after the dismissal of my motion to dismiss, I filed an answer and reply to that lawsuit. Impulse is still sending email to my mailbox.

Declaration

I, Jonathan K. Gordon, declare the following:

- 1) I am a named third party defendant in the above captioned lawsuit. I am over the age of 18 and am otherwise competent to testify.
- 2) I introduced evidence in my answer to this lawsuit and the subsequent declarations in support thereof, which states that Impulse knew that the “gordonworks.com” Internet domain name was not to be sent email by Impulse or its affiliate marketers – see Impulse’s Kenneth Adamson’s October 21, 2003 memo, wherein he states, “...this recipient is in a file of blocked and/or suppressed recipients and will not receive mail from any of our marketing partners”.
- 3) On January 7, 2004, Robert Kane, CEO of Commonwealth Marketing Group, Inc. of Uniontown, PA – the company which hired Impulse to send email on its behalf warned the owner of Impulse, Jeff Goldstein, “it is imperative that Impulse and any Impulse affiliate marketers take every available step to assure that no message of any kind be transmitted to the network

1 domain: "gordonworks.com". Impulse failed to comply with all
2 requests to stop sending "gordonworks.com" email ads.

3 4) On March 22, 2006, Impulse sent ten emails addressed to the
4 gordonworks.com domain. Two of those emails were addressed
5 to "jonathan@gordonworks.com". **Exhibit 1**

6 5) The continued email abuse of the "gordonworks.com" domain by
7 Impulse can not be justified by business necessity or any other
8 legitimate reason --- the only purpose these emails serve is to
9 harass, intimidate, and annoy me.

10 6) Impulse's lack of diligence in terms of its corporate obligations
11 to the public vis-à-vis honoring legitimate opt-out requests has
12 led to ongoing damages – financial damages as well as damage
13 to the "public trust" – these damages are ongoing and are due
14 solely to Impulse's actions or lack of action.

15 7) Impulse continues to profit from selling my personally
16 identifying information in spite of the current lawsuit citing
17 violations of RCW 9.35 – Identity Theft Statute and RCW
18 19.170- Free Prize Statute.

19 8) Impulse has acted with malice and oppression by forcing its
20 marketing ads on me and quite likely on hundreds, thousands,
21 or perhaps tens of thousands of Washington State residents.

22 THEREFORE, third party defendant moves this Court to issue an
23 order for a temporary injunction against Impulse Marketing Group, Inc.
24 (a Nevada corporation) doing business in the State of Georgia.

Specifically, the undersigned asks this Court to enjoin Impulse and its agents, employees, directors, owners, contractors, and all others acting on behalf of Impulse from sending email to me and to enjoin Impulse from sending its email to all Washington State residents until this lawsuit has been adjudicated. Impulse’s reckless behaviors are anathema to the “public trust” as it uses its business to harass, intimidate and annoy individuals who complain about its marketing practices. An injunction helps to preserve the public trust, especially on this matter which entails questions of identity theft and other public policy concerns.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Jonathan K. Gordon, Pro Se

9804 Buckingham Drive

Pasco, WA 99301

509-210-1069

EXECUTED this 27th day of March, 2006.

Certificate of Service

I, hereby, certify that on March 27, 2006, I filed this motion with this Court. I have served Bob Siegel, Peter J. Glantz, Sean A. Moynihan, Floyd E. Ivey, Bonnie Gordon, James Gordon III, Jamila Gordon, Emily Abbey, and Robert Pritchett by other means.

Exhibit 1

X-Persona: <gordonworks.com>
Return-Path: <jonathan@gordonworks.com>
Delivered-To: 7-jim@gordonworks.com
Received: (qmail 29123 invoked by uid 0); 22 Mar 2006 03:26:50 -0600
Received: (qmail 23329 invoked from network); 22 Mar 2006 03:26:35 -0600
Received: from mail3.banddly.com (66.59.94.15)
by cirobin.com with SMTP; 22 Mar 2006 03:26:34 -0600
Message-ID: <28563012.1143019571358.JavaMail.root@banddly.com>
Date: Wed, 22 Mar 2006 03:26:11 -0600 (CST)
From: Free Card Search <card@banddly.com>
Reply-To: Free Card Search <r-957424-35879@banddly.com>
To: "jonathan@gordonworks.com" <jonathan@gordonworks.com>
Subject: *****SPAM***** Your New Credit Line Has Been Approved Please Activate
Mime-Version: 1.0
Content-Type: multipart/alternative;
boundary="----_Part_68457_29874667.1143019571357"
X-CC: yvvzmjwvdqxdqdxqzmdqbbz zxxzvfpqpxmzbz bvqpbzpj
X-Spam-Flag: YES
X-Spam-Checker-Version: SpamAssassin 2.63 (2004-01-11) on gordonworks.com
X-Spam-Level: *****
X-Spam-Status: Yes, hits=17.3 required=7.0 tests=ADDR_FREE,BAD_CREDIT,
BAYES_99,BEEN_TURNED_DOWN,COMPLETELY_FREE,FOR_FREE,
HTML_IMAGE_RATIO_04,HTML_MESSAGE,HTML_TITLE_UNTITLED,NO_OBLIGATION,
RCVD_IN_BL_SPAMCOP_NET,RCVD_IN_SBL,TO_ADDRESS_EQ_REAL autolearn=spam
version=2.63
X-Spam-Report:
* 0.8 TO_ADDRESS_EQ_REAL To: repeats address as real name
* 2.6 ADDR_FREE From Address contains FREE
* 1.4 BEEN_TURNED_DOWN BODY: Have you been turned down?
* 0.4 BAD_CREDIT BODY: Eliminate Bad Credit
* 0.5 COMPLETELY_FREE BODY: No such thing as a free lunch (2)
* 0.6 FOR_FREE BODY: No such thing as a free lunch (1)
* 1.5 NO_OBLIGATION BODY: There is no obligation
* 1.1 HTML_IMAGE_RATIO_04 BODY: HTML has a low ratio of text to image area
* 0.1 HTML_MESSAGE BODY: HTML included in message
* 5.4 BAYES_99 BODY: Bayesian spam probability is 99 to 100%
* [score: 1.0000]
* 0.4 HTML_TITLE_UNTITLED BODY: HTML title contains "Untitled"
* 1.5 RCVD_IN_BL_SPAMCOP_NET RBL: Received via a relay in bl.spamcop.net
* [Blocked - see <http://www.spamcop.net/bl.shtml?66.59.94.15>]
* 1.1 RCVD_IN_SBL RBL: Received via a relay in Spamhaus Block List
* [<http://www.spamhaus.org/SBL/sbl.lasso?query=SBL30018>]

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